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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,729	12/22/2005	Monika Ivantysynova	18063	8564

25542 7590 01/29/2007

CNH AMERICA LLC  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
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EXAMINER
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LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/534,729

Applicant(s)

IVANTYSNOVA ET AL.

Examiner

Michael Leslie

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 4, 8, and 13-15 are objected to because of the following informalities:

Claim 4, Line 3, "arranging" should be --arranged--;

Claim 8, Line 3, "arranging" should be --arranged--;

Claim 13, Line 2, --and-- should be inserted after "pump;";

Claim 13, Line 5, --motors-- should be inserted after "hydraulic"

Claim 14, Line 2, "observe" should be --observing--

Claim 15, Lines 1-2, "A procedure in accordance with claim 6 for accelerating a multi-motor drive unit in the reverse direction" should be --A procedure for accelerating a multi-motor drive unit, in accordance with claim 6, in the reverse direction--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites "a controllable coupling" which appears to be a restatement of the "controllable coupling" introduced in claim 7.

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Claim 12 recites “engaging or disengaging said controllable clutch to determine the direction of rotation of said load”, which is misleading because the specification, in paragraph [0025], describes the engagement and disengagement of the clutch as being for varying the maximum available torque that can be delivered to the load when the motors drive in reverse.

Claim 13 recites “if even additional rotational speed is desired, the volume of the other said one of said at least two hydraulic [motors] is reduced”, which is in conflict with the device claimed in claim 1 because claim 1 only recites one of the motors as having a variable displacement.

Claim 14 recites the steps of “observing” and “adjusting”, the specification lacks any description of this process. Further, it appears that these steps are merely the actions of a person operating the “drive unit”.

Claims 12-15 are indefinite for being ambiguous for claiming both an apparatus and the method steps of using the apparatus in the same claim (see MPEP 2173.05(p)). Claim 1 defines an apparatus, while claims 12-15, each indirectly dependent from claim 1, define processes for using the apparatus.

Claims 12-15 are rejected under 35 U.S.C. 101 because the claims are directed to neither a "process" nor a "machine," but rather embraces two different statutory classes of invention.

***Allowable Subject Matter***

Claims 1-10 are allowed.

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6847319 discloses a multi-motor drive unit having two hydraulic motors (M1, M2) driven by a pump (P) wherein the motors are connected by a coupling (18), however the coupling does not operate as a freewheel device. 5159992 also discloses multi-motor drive unit with a coupling (4, 5, 8) between the first and second motors, however the coupling does not operate as a freewheel device.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML

January 18, 2007

  
Michael Leslie  
Patent Examiner  
AU 3745